

CONFIDENTIAL - PROTECTED HEALTH INFORMATION

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA
2 ERIE DIVISION

3 UNITED STATES OF AMERICA, ex rel.)
4 DILBAGH SINGH, M.D., PAUL KIRSCH,)
5 M.D., V. RAO NADELLA, M.D., and)
5 MARTIN JACOBS, M.D.,)
6)
6 Relators,)
7) Civil Action
7 vs.) No. 04-186E
8)
8 BRADFORD REGIONAL MEDICAL CENTER,)
9 V&S MEDICAL ASSOCIATES, LLC,)
9 PETER VACCARO, M.D., KAMRAN SALEH,)
10 M.D., and DOES I through XX,)
10)
11 Defendants.)
11

12 DEPOSITION OF PETER VACCARO, M.D.

13 THURSDAY, AUGUST 9, 2007

14 Deposition of PETER VACCARO, M.D., called as a
15 witness by the Plaintiffs, taken pursuant to Notice of
16 Deposition and the Federal Rules of Civil Procedure,
17 by and before Joy A. Hartman, a Court Reporter and
18 Notary Public in and for the Commonwealth of
19 Pennsylvania, at the offices of Fox Rothschild, 625
20 Liberty Avenue, 29th Floor, Pittsburgh, Pennsylvania,
21 commencing at 2:56 p.m. on the day and date above set
22 forth.
23

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1 APPEARANCES:

2 On behalf of the Relators:

3 Stone Law Firm
4 Andrew M. Stone, Esquire
1400 Allegheny Building
5 Pittsburgh, Pennsylvania 15219
-and-
6 Simpson Law Firm, LLC
G. Mark Simpson, Esquire
165 North Main Street
7 Jonesboro, Georgia 30236

8 On behalf of the Defendant Bradford Regional Medical
Center:

9 Horthy Springer
10 Dan Mulholland, Esquire
4614 Fifth Avenue
11 Pittsburgh, Pennsylvania 15213

12 On behalf of the Defendants V&S Medical Associates,
LLC, Peter Vaccaro, M.D. and Kamran Saleh, M.D.:

13 Fox Rothschild
14 Carl J. Rychcik, Esquire
625 Liberty Avenue, 29th Floor
15 Pittsburgh, Pennsylvania 15222

16 ALSO PRESENT:

17 John Rice, Horthy Springer

18 Kamran Saleh, M.D.

19 - - -

20 INDEX

21 WITNESS: PAGE:

22 PETER VACCARO, M.D.

23 Examination by Mr. Simpson

6

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1 P R O C E E D I N G S

2 - - -

3 (Deposition Exhibit Nos. 1 and 2 were
4 marked for identification.)

5 - - -

6 MR. SIMPSON: This will be the deposition
7 of Dr. Peter Vaccaro, and it immediately
8 follows the deposition of Dr. Kamran Saleh, and
9 we had previously introduced a bunch of
10 exhibits in Dr. Saleh's deposition, and we are
11 going to reference the exact same exhibits in
12 this deposition.

13 So whenever I refer to any exhibit number,
14 it will be the same exhibit that was introduced
15 in Dr. Saleh's deposition, and the first two
16 exhibits are the copies of the Protective
17 Orders that have been entered into this case,
18 and just so that all parties can understand
19 what we are referring to.

20 MR. RYCHCIK: And, again, given that the
21 documents in Dr. Saleh's deposition included a
22 number of confidential documents that fall
23 within the Protective Order, we designated that

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1 deposition as confidential, and we would like
2 to do the same for Dr. Vaccaro's deposition.

3 I would also ask that to the extent we use
4 exhibits from Dr. Saleh's deposition, I don't
5 have a problem with referencing them, using
6 them; but I would request that we attach -- I
7 would request we have duplicates, obviously, so
8 that Dr. Saleh's deposition has all of the
9 exhibits and that we have got a copy for Dr.
10 Vaccaro contained therein.

11 MR. MULHOLLAND: Just by way of not
12 delaying the deposition anymore, the hospital
13 has the same statement with respect to any
14 documents or communications that had been
15 discussed during Dr. Saleh's deposition, that
16 may have contained privileged information and
17 peer review, attorney-client or otherwise; and
18 by that information being on the record, the
19 hospital is not waiving any privilege that it
20 might assert with respect to those documents or
21 communications.

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1 PETER VACCARO, M.D.,
2 called as a witness by the Relators, being first duly
3 cautioned and sworn, as hereinafter certified, was
4 deposed and said as follows:

5 EXAMINATION

6 BY MR. SIMPSON:

7 Q. Could you please state your name for the
8 record?

9 A. Peter Vaccaro.

10 Q. Dr. Vaccaro, you were here for Dr. Saleh's
11 deposition, correct?

12 A. Excuse me?

13 Q. You were present for --

14 A. I was here throughout the whole thing.

15 Q. Throughout the whole deposition?

16 A. Throughout the whole thing.

17 Q. And I'm going to try to move yours along a
18 little bit faster, so that we don't have to go over
19 everything again. There probably will be some
20 duplication, but we will try to avoid it as much as
21 possible.

22 MR. RYCHCIK: Off the record.

23 (Discussion off the record.)

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1 Q. Where did you graduate from medical school?

2 A. University of Guadalajara, Mexico.

3 Q. When did you graduate?

4 A. 1985.

5 Q. After graduating -- well, I guess, are you an
6 American citizen?

7 A. Yes, I am.

8 Q. Have you always been?

9 A. I was born in Brooklyn, New York.

10 Q. After graduating from medical school, have you
11 had any further formal medical education, including
12 residency programs?

13 A. Other than residency programs?

14 Q. Including residency programs.

15 A. Residency in internal medicine.

16 Q. And where did you do that residency?

17 A. I had to do a Fifth Pathway, which is --

18 Q. What is that?

19 A. A Fifth Pathway coming from a Mexican school is
20 one of the agreements that the University of Mexico
21 has to get us into the mainstream again to apply for a
22 residency in the United States.

23 Q. And what does a Fifth Pathway involve?

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1 A. It is almost like a repeat of your fourth year
2 clinical rotations.

3 Q. And where did you do that?

4 A. I did that at New York Medical College.

5 Q. Was that immediately after you graduated
6 school?

7 A. About six months later.

8 Q. Then after that, did you go into a residency
9 program?

10 A. I went into a residency program, yes.

11 Q. In internal medicine?

12 A. In internal medicine.

13 Q. Where did you do that?

14 A. I did my first year in St. Francis in New
15 Haven, and my second year in Monmouth Medical Center,
16 and my third year in St. Francis in Trenton, New
17 Jersey.

18 Q. Was there any reason you did it in different
19 places each year?

20 MR. RYCHCIK: Objection as to relevancy.

21 Q. You can answer.

22 (THE NEXT PORTION OF TESTIMONY, PAGE 10 LINE 1
23 THROUGH PAGE 14 LINE 23, WAS EXCERPTED PER REQUEST OF

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1 ATTORNEY CARL RYCHCIK AS "ATTORNEYS' EYES ONLY" AND
2 SEPARATED FROM THE TRANSCRIPT AND PLACED IN A SEALED
3 ENVELOPE.)

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1 (EXAMINATION RESUMED AFTER "ATTORNEYS'
2 EYES ONLY" EXCERPT OF DEPOSITION OF DR. VACCARO WITH
3 EXAMINATION RESUMED BY ATTORNEY SIMPSON.)

4
5 EXAMINATION

6 BY MR. SIMPSON:

7 Q. Where do you currently have privileges,
8 hospital privilegeS?

9 A. I have privileges at two hospitals. My first
10 hospital privileges were Bradford Regional Medical
11 Center.

12 Q. And when did you get those?

13 A. In 1994.

14 Q. And you have had those since then?

15 A. Yes, I have.

16 Q. And where else?

17 A. At Olean General Medical Center.

18 Q. And when did you get those?

19 A. I don't recall, sir. Sometime in 2001 or 2 or
20 3, within those times.

21 Q. Five years, plus or minus ago?

22 A. Yes.

23 Q. Have you ever had privileges at any other

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1 hospitals?

2 A. No.

3 Q. Have you ever been denied privileges at any
4 other hospital?

5 A. No.

6 Q. In Dr. Saleh's deposition, I asked him several
7 questions about the formation of V&S Medical
8 Associates. Were you paying attention during that
9 questioning?

10 MR. RYCHCIK: Objection.

11 A. Yes.

12 MR. RYCHCIK: Objection to the form of the
13 question.

14 Q. I didn't mean that insultingly. I meant --

15 MR. RYCHCIK: Go ahead. I withdraw the
16 question.

17 A. Yes, I was.

18 Q. Do you have any disagreement with Dr. Saleh's
19 testimony about the formation of V&S?

20 MR. RYCHCIK: Objection as to the form of
21 the question. Go ahead. You can answer.

22 A. No.

23 Q. As far as you could tell, his testimony was

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1 accurate?

2 A. Yes, it was.

3 Q. About how V&S was formed?

4 A. Yes.

5 Q. And you understand, I'm asking it this way,
6 because I'm trying to move things along?

7 A. I understand.

8 MR. RYCHCIK: Just for the record, Mark, I
9 don't have a problem with trying to move things
10 along.

11 MR. SIMPSON: I understand.

12 MR. RYCHCIK: I do want to proceed
13 carefully --

14 MR. SIMPSON: I understand.

15 MR. RYCHCIK: -- though, because if you
16 are just going to group all the testimony
17 together, I do think that is going to be a
18 problem.

19 MR. SIMPSON: No. I'm not grouping it all
20 together. I understand.

21 Q. I also asked Dr. Saleh a question about V&S'
22 practice before you acquired the nuclear camera. Was
23 there anything that he testified about the nature of

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1 V&S' practice before you acquired the nuclear camera
2 that you disagreed with?

3 MR. RYCHCIK: Objection as to form of the
4 question.

5 A. I feel like I'm here to confirm Dr. Saleh's
6 testimony, and I thought you were going to get my
7 testimony.

8 Q. I am. I am. I am just trying -- I'm first
9 going to ask you if there was anything in his
10 testimony that you disagreed with.

11 A. No. His testimony in describing the practice
12 as it works was very accurate.

13 Q. During that period of time, is it fair to say
14 that the vast majority of your inpatient referrals
15 were made to Bradford Medical Center?

16 MR. RYCHCIK: Objection as to form.

17 A. During what period of time?

18 Q. During the period of time before you acquired
19 the nuclear camera.

20 MR. RYCHCIK: Objection as to the form of
21 the question. Go ahead. You can answer.

22 A. Could you repeat the question, please?

23 Q. Is it fair to say that during that period of

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1 time before you got the nuclear camera, that the vast
2 majority of your inpatient referrals were to Bradford
3 regional Medical Center?

4 MR. RYCHCIK: Same objection. Go ahead
5 and answer.

6 A. The inpatient referrals were based on a very
7 sensitive issue of where the patients wanted to go and
8 what was accessible, depending on their problem; and,
9 you know, there could be multiple places they could
10 go, but, you know, most of the time they would pick
11 the most convenient, which would be Bradford Medical
12 Center.

13 Q. So is the answer to my question, then, yes?

14 A. Yes, according to all the potential options
15 that were available.

16 Q. The same question for outpatient referrals. Is
17 it fair to say that most of your outpatient referrals
18 were to Bradford Regional Medical Center?

19 MR. RYCHCIK: Objection as to the form of
20 the question. You can answer.

21 A. Again, Bradford Regional Medical Center was one
22 of the options; and most of the time, the patient
23 wanted to go to Bradford Regional Medical Center, and

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1 if that is what they wanted, that is where they went.

2 Q. I understand there might have been good reasons
3 to send them there. I am just asking you for just the
4 simple facts. It is true that most of the outpatient
5 referrals were to Bradford as opposed to somewhere
6 else?

7 A. I just wanted to make sure that it is
8 understood that it is not just an automatic thing all
9 the time, that most of the time, it is because of
10 patient choices.

11 Q. My question is not about the reasons. My
12 question is about the simple fact. It is a fact, is
13 it not, that most of the outpatient referrals were to
14 Bradford?

15 A. Yes, they were.

16 Q. Now, after you leased the nuclear camera --
17 well, let me ask you this: In the period when you
18 were deciding whether or not to lease the nuclear
19 camera, do you recall doing any projections about the
20 amount of additional income that you would receive?

21 A. There could have been some discussions.

22 Q. Do you recall any specific discussions?

23 A. No.

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1 Q. Do you recall any specific quantification of
2 dollar amounts, estimates?

3 A. Obviously, we knew the number we were doing at
4 the hospital, and that doesn't take much mathematical
5 skills to figure that one out.

6 Q. How did you go about determining the number
7 of -- when you say the number we were doing at the
8 hospital, you are talking about nuclear imaging tests,
9 right?

10 A. Yes.

11 Q. How did you go about determining the number
12 that you were doing at the hospital?

13 A. I mean, it is pretty easy, because we do it at
14 the same time every day, so I mean, if you do one a
15 day, five days a week, or occasionally, two a day,
16 sometimes, it is pretty easy, give or take, a five or
17 ten percent mistake, a margin of error.

18 Q. And you know where you are doing the test,
19 right? I mean, you know whether you are doing them at
20 Bradford or someplace else?

21 A. Well, some tests may not be done at Bradford.
22 I mean, a lot of times we got tests from Hamot Medical
23 Center. There could be tests done there, that could

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1 be sent there.

2 Q. But that was a small percentage of the tests
3 that you were performing, right?

4 A. I don't know what percentage it was.

5 Q. You just said it was easy to figure out much
6 you sent to the hospital?

7 A. That part.

8 Q. So it is not easy to figure out how many you
9 sent anywhere else?

10 A. Not as much.

11 Q. Really? How come?

12 A. Because --

13 Q. What is the difference?

14 A. The difference is then because then you left
15 up -- you left the decision to do the stress test up
16 to the cardiologist in that institution.

17 Q. But how is it easy to know when they are being
18 done in Bradford, but it is not as easy to know when
19 they are being done somewhere else?

20 A. Because I'm actually doing the ones at
21 Bradford.

22 Q. So all the ones you are not doing are being
23 done somewhere else?

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1 MR. RYCHCIK: Objection as to the form of
2 the question.

3 A. Yes.

4 Q. What percentage of them were you doing?

5 A. Approximately 80 percent or so, probably.

6 Q. Did Dr. Saleh do any of the tests at Bradford?

7 A. Yes, he did.

8 Q. So you weren't the only one doing it at
9 Bradford, then?

10 A. Correct.

11 Q. I thought you just said that you did -- that
12 all of the ones done at Bradford were done by you?

13 A. No. That is not what I said.

14 Q. You are saying all the ones that you did were
15 done at Bradford?

16 A. I was speaking for myself.

17 Q. Did you do more than Dr. Saleh, or did he do
18 more than you?

19 A. I think I probably did a little bit more than
20 him.

21 MR. RYCHCIK: I do want to caution you. I
22 don't want you to be guessing. It is the same
23 kind of thing as Mr. Simpson instructed Dr.

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1 Saleh, if you are able to make a reasonable
2 estimate, that is one thing. I don't want you
3 to be guessing if you don't know.

4 Q. Now, in terms of non-nuclear tests, other kinds
5 of tests, MRIs and CT scans, and x-rays, a similar
6 question, is it fair to say that the majority of those
7 were done at Bradford?

8 A. Yes.

9 Q. We talked a minute ago about whether you
10 attempted to qualify the value of getting a new
11 camera. Did you come to a dollar figure that you
12 thought you would get for increased revenues or
13 increased profit?

14 A. I don't recall what we actually came up with at
15 that time.

16 Q. Would it have been in the hundreds or thousands
17 of dollars per year for you?

18 A. It could have been.

19 Q. Do you recall whether you looked at any other
20 cameras, other than the GE camera that you ended up
21 leasing?

22 A. I don't recall.

23 Q. After you got the camera, is it fair to say

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1 with the exception of nuclear imaging referrals, your
2 other referral patterns stayed the same?

3 A. Yes.

4 Q. And your nuclear imaging referrals changed in
5 that a lot of tests you were doing you were doing
6 in-house that you otherwise would have performed at
7 Bradford, correct?

8 A. Obviously, we weren't going to be performing
9 them in the office anymore, and Bradford would be one
10 of the choices that would be decided upon. There
11 could be several choices.

12 Q. You might have misunderstood my question.

13 MR. RYCHCIK: I was going to say, I think
14 he might have misunderstood the question.

15 Q. I am talking about during the period when you
16 had the new camera, when you leased it.

17 A. Oh, when I had the nuclear camera. I thought
18 you meant after.

19 Q. So with respect to nuclear imaging tests, your
20 referrals to Bradford went down, because a lot of the
21 tests that would have been done there, you were doing
22 in-house?

23 A. Correct.

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1 Q. And correct me if I am wrong, I think Dr. Saleh
2 testified that a small number of the tests that you
3 were doing in your office might have been referred
4 from other sources; but the vast majority of them were
5 your own patients?

6 A. Yes.

7 MR. RYCHCIK: Are you asking him if that
8 is true, or if that is what Dr. Saleh said?

9 MR. SIMPSON: I am asking him if that is
10 true.

11 Q. That is true, correct?

12 A. That is true.

13 Q. And then as we discussed earlier at some point,
14 Bradford came to you with concerns about your nuclear
15 camera, correct?

16 A. Correct.

17 Q. Did you or Dr. Saleh take the lead in the
18 discussions with the hospital on that issue? This is
19 before you obtained -- retained counsel?

20 A. I don't recall.

21 MR. RYCHCIK: Objection as to the form of
22 the question.

23 A. I don't recall.

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1 Q. Was there one of you who was more involved in
2 discussion on that than the other?

3 A. As I recall, it was even.

4 Q. Were both of you present at all meetings with
5 Bradford?

6 A. Yes.

7 Q. And as I understand it, you had several
8 meetings with Bradford before you retained counsel,
9 correct?

10 A. Yes.

11 Q. And at those meetings, was Bradford ever
12 represented by counsel?

13 A. They may have been, but I don't know.

14 Q. Basically, I am asking you: Did they ever have
15 lawyers there when you didn't?

16 A. No.

17 Q. Was George Leonhardt the one you were always
18 dealing with?

19 A. The first time we met, me and Dr. Saleh met
20 with Mr. Leonhardt in April of 2001.

21 Q. And did you ever meet with other people in
22 Bradford -- I'm talking about before you got the
23 lawyers involved. Did you ever meet with other people

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1 at Bradford besides Mr. Leonhardt?

2 A. I don't recall.

3 Q. Did you ever meet with the Board?

4 A. I don't recall.

5 Q. Now, at some point, you retained Ed Kabala to
6 represent you, right?

7 A. Yes.

8 Q. And then at some point, you also got Marc
9 Raspanti, his firm, to represent you?

10 A. Yes, we did.

11 Q. Was that at the same time, did you start out
12 with Mr. Kabala, and then move on to Mr. Raspanti?

13 A. Correct.

14 Q. Do you recall whether it was you, meaning V&S
15 or Bradford, that first made the suggestion that,
16 "Let's try to work out some resolution, you know,
17 rather than having to enforce the non-compete policy"?

18 A. I don't recall.

19 Q. Do you know who first brought up the proposal
20 of doing a joint venture?

21 A. Under arrangements?

22 Q. If I use "joint venture" or "under
23 arrangements," I'm using them interchangeably. Do you

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1 know if that was something that was initially proposed
2 by the hospital or by you guys?

3 A. It was proposed by the hospital.

4 Q. What was your initial reaction when you raised
5 that issue? Did you view it favorably or unfavorably?

6 A. I viewed it as unfavorably, because we were
7 already operating our nuclear camera.

8 Q. Now, after you had been operating the nuclear
9 camera for some time, did you get an understanding for
10 how your profits had increased?

11 A. Yes.

12 Q. Can you quantify that?

13 A. I don't know the exact number. I don't
14 remember the exact number.

15 Q. Would that have been somewhere like 250 or 300
16 thousand dollars a year?

17 A. It was approximately 200,000.

18 Q. So you thought that keeping things the way they
19 were was a better deal for you than entering into an
20 under arrangements venture with the hospital, was that
21 correct?

22 A. Correct.

23 Q. Was it your understanding that the hospital was

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1 essentially warning you guys to contribute your
2 nuclear camera as part of the under arrangements
3 venture? First off, is that your understanding of one
4 of the things they were wanting you to do?

5 A. Repeat the question, please.

6 Q. As part of the under arrangements venture, was
7 the hospital expecting V&S to contribute their nuclear
8 camera to the venture?

9 A. I don't recall.

10 Q. And was it your position that you were being
11 asked to contribute a lot more than the other doctors
12 who were going to be invited into the joint venture?

13 A. Well, we already had an established business
14 that had a certain amount of equity and earning
15 ability, and, therefore, we didn't think it was a fair
16 deal for us.

17 Q. Did Dr. Saleh express the same opinions to you?

18 A. Yes, he did.

19 Q. Before the lawyers got involved, do you recall
20 any discussions or communications with Mr. Leonhardt
21 or anybody at the hospital relating to the Stark law
22 or the anti-kickback statute?

23 A. I don't recall.

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1 Q. At that time, did you have any independent
2 knowledge of what the Stark Law or the anti-kickback
3 statutes involved?

4 A. Of course, I am not a legal expert, but I was
5 somewhat familiar with the basic concept.

6 Q. How had you acquired that basic familiarity?

7 A. The basic familiarity of that is that you
8 cannot go into --

9 MR. RYCHCIK: I don't know if you heard
10 his question.

11 Q. I am asking how you got that knowledge.

12 A. Oh, how? I thought you were asking me what it
13 was. Okay.

14 Oh, how? Through various discussions with
15 other physicians and some seminars in the past, CME
16 programs with magazines, and there could be other
17 various sources that I may be leaving out at this
18 point.

19 Q. So you had been to CMEs or seminars at which
20 the Stark and anti-kickback statutes were discussed?

21 A. Yes.

22 Q. So now I will ask the question: At that time,
23 as you were starting your discussions with the

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1 hospital, what was your understanding about what the
2 anti-kickback statute said?

3 A. That you cannot go into an arrangement that
4 gives you economic benefit for referral of patients.

5 Q. And what was your understanding as to what the
6 Stark statute involved?

7 A. What was the first -- what did I answer?

8 Q. Anti-kickback statute was my first question.

9 Now, I am asking about do you have any different
10 understanding, or did you have any different
11 understanding about what the Stark statute involved?

12 A. I'm not sure.

13 Q. Did you sort of join the two in your mind?

14 A. Kind of, yes.

15 Q. During your discussions with the hospital,
16 however, you were aware that the Stark statute and the
17 anti-kickback statute were issues that would need to
18 be addressed, correct?

19 A. Absolutely.

20 Q. As you continued on with the negotiations with
21 the hospital, even after you got the lawyers involved
22 over the under arrangements venture, was there ever a
23 time when you saw the under arrangements venture as

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1 something that you thought might really work out, or
2 were you always skeptical?

3 A. As time progressed, and the burden of
4 continuing the dispute, we decided, we and I decided
5 that maybe we should look into it, and at least inform
6 ourselves of what it would be.

7 Q. But you were never sold on it? Is that fair to
8 say?

9 MR. RYCHCIK: Objection as to the form.

10 Go ahead.

11 A. Not really.

12 Q. Was there ever a time when you told the
13 hospital or you asked the hospital to buy out all or
14 part of your practice for \$1.8 million?

15 A. Yes, there was.

16 Q. How did you arrive at that figure?

17 A. I mean, again, there was no great mathematical
18 genius. The prior physician had gotten a certain
19 amount, and we, basically, doubled that, because it
20 was two of us.

21 Q. Did you engage in any kind of, you know -- in
22 reaching that 1.8 figure, did you base it on the
23 specific amount of tests that you would be performing,

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1 the specific amount of income that you would be losing
2 by selling the practice to the hospital, or was it
3 just a number that you thought sounded or felt right?

4 A. The number felt right, and I thought it was a
5 bargain.

6 Q. For them or for you?

7 A. For both of us.

8 Q. I'm sure it can't be a bargain for both of you.

9 Let me show you some, but not all of these
10 letters that we discussed. Did you have a chance to
11 look through most of the letters as we were doing Dr.
12 Saleh's deposition?

13 A. Quickly.

14 Q. All right. I want to show you Exhibit 4, and
15 it should be in here somewhere. Do you recall this
16 letter first?

17 MR. RYCHCIK: I am assuming you are asking
18 him independently as to when he read it
19 earlier?

20 Q. I hope you recognize it from earlier today. If
21 I ask you if you recognize any letter, I mean
22 independently of what you saw today.

23 A. I do remember receiving an initial letter.

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1 This is one of the initial letters that we received.

2 Q. If you look down at the third paragraph, the
3 first sentence, you know, the first sentence points
4 out or says that "We did have several discussions
5 about the possible development of a Joint Venture
6 within the Safe Harbor exceptions to Stark II," and
7 that is consistent with what you said before that you
8 did have discussions with the hospital about the Stark
9 statute?

10 A. Uh-huh.

11 MR. RYCHCIK: Try to say "yes" or "no."

12 A. Yes.

13 Q. And it goes on to say that, "At that time, you
14 told me," and I'm not sure if "you" refers to you or
15 Dr. Saleh, "You told me that you expected to generate
16 additional revenue between \$550,000 and \$700,000
17 annually from the nuclear camera, and that your annual
18 expenses would be approximately \$150,000."

19 Do you recall making statements along those
20 lines to the hospital?

21 A. No, I do not. I don't remember.

22 Q. Do you know whether Dr. Saleh made statements
23 like that?

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1 A. I don't remember.

2 Q. You don't remember not making those statements?
3 I mean, you are not denying that he has accurately
4 described your conversations? You are just saying you
5 don't remember, correct?

6 MR. RYCHCIK: Objection as to form.

7 A. I do not remember. Really, I do not remember.

8 Q. Okay. Now, I want to show you Exhibit 5, and
9 specifically, on the second page of this exhibit,
10 which is the first page of the February 22nd letter,
11 it says, "We attach for your review a copy of the
12 letter that we understand was hand delivered to Mr.
13 Richard McDowell by Dr. Peter Vaccaro."

14 Do you recall hand delivering a letter to Mr.
15 McDowell?

16 A. No, I do not.

17 Q. If you will flip over to page Bates No. 132,
18 which is a December 4 letter to you, do you remember
19 giving a copy of this letter to Mr. McDowell?

20 A. I don't remember.

21 Q. Do you remember receiving this letter yourself?

22 A. I vaguely remember getting the letter, but I
23 don't remember giving it to anybody.

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1 Q. Let's go forward to Exhibit 8. Exhibit 8 is a
2 May 20, 2002 letter to Dr. Saleh from Richard McDowell
3 and before today, had you seen this letter?

4 MR. RYCHCIK: Go ahead. Take a look at
5 it. I know you were still looking at the other
6 exhibit.

7 A. Again, it has been a long time, and I vaguely
8 remember the contents, obviously, but I --

9 Q. You vaguely remember it?

10 A. (The witness nods his head.)

11 Q. I couldn't tell whether that was a yes motion
12 or --

13 A. The contents are familiar, but I don't remember
14 actually receiving the letter.

15 Q. If you look at the last paragraph on the first
16 page, is that a true statement that "you significantly
17 changed your practice pattern," and that, "We
18 understand that is because you are now using the V&S
19 equipment in its place"?

20 A. Yes.

21 Q. Quickly, I will ask you to look at Exhibit 10.
22 Well, you can look at it as long as you want, but I
23 will ask you a quick question about it.

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1 My first question, as usual is -- this letter
2 was purportedly sent by Dr. Saleh, but do you recall
3 seeing this letter, the one that was sent?

4 A. Again, I don't mean to sound like I don't --
5 like I didn't participate, but this was a long time
6 ago, five years ago, more than five years ago. The
7 contents seem familiar, and I don't remember the
8 actual letter.

9 Q. Typically, would you and Dr. Saleh have
10 consulted with each other before sending letters like
11 this to Bradford?

12 A. I would just like to finish reading this real
13 fast, please.

14 Q. Okay.

15 A. What was your question again?

16 Q. Would you and Dr. Saleh typically have
17 consulted with each other before one of you sent a
18 letter like this to Bradford since it dealt with
19 issues concerning both of you?

20 A. Yes, we would.

21 Q. And on the second page, that top paragraph, it
22 refers to a true and equal joint venture, with "equal"
23 being underlined. Do you recall what you were

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1 thinking when you described an acceptable joint
2 venture as being true and equal?

3 A. We were already involved in a nuclear medicine
4 business, and our feeling was that whatever agreement
5 we came to with the hospital should be -- it should
6 represent what we already had, since we were going to
7 give it up.

8 Q. Okay. And then that sentence goes on to talk
9 about, "If your attorneys can come up with a proposal
10 that they think is legal in today's environment, and
11 our attorneys agree," and I think you might have said
12 this earlier, you recognized that it was --

13 A. We recognized --

14 Q. You recognized that any kind of an issue you
15 came up with had to be a legal agreement, correct?

16 A. Correct.

17 Q. I will show you Exhibit 11. This is a June 26
18 letter to you and Dr. Saleh from George Leonhardt
19 mentioning the Stark law in the context of an under
20 arrangements venture, and I will ask you if you recall
21 receiving this letter?

22 A. I don't actually remember receiving the letter,
23 but I remember the contents of what they are talking

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1 about. They are exploring the possibilities of a
2 joint venture.

3 Q. Do you recall any communications from Bradford
4 discussing these same issues with respect to the
5 sublease arrangement, as opposed to the under
6 arrangements?

7 A. Are you referring to the Stark laws?

8 Q. Yes. This letter, basically, says an under
9 arrangements venture, these comply with the Stark law?
10 Do you recall getting any similar letter dealing with
11 the application of Stark law to a sublease
12 arrangement?

13 A. No, I don't recall.

14 Q. Do you recall having any discussions with
15 Bradford being in any meeting where Bradford was
16 participating with you and your attorneys, any
17 statements about whether or not the sublease
18 arrangement as proposed, in fact, satisfied the Stark
19 statute?

20 A. Well, I seem to have acquired, you know, the
21 knowledge that a sublease agreement had to be based on
22 a fair market value, and, most likely, have a
23 non-compete associated with that. We knew that that

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1 would probably -- that that would satisfy the Stark
2 law.

3 Q. Was that based -- you said we knew that. Was
4 that based on anything that Bradford told you?

5 A. It could have been. I don't recall.

6 Q. Was it based on anything your attorneys stated
7 in anything that Bradford was present at?

8 A. I don't remember exactly where.

9 Q. So you have no recollection of any specific
10 such instance where anybody told you, yes, this
11 satisfies Stark?

12 MR. RYCHCIK: Objection. Again, I am
13 assuming that you are not asking for
14 attorney-client --

15 Q. I am not asking for a conversation just between
16 you and your attorney. I am asking for anything where
17 Bradford was involved.

18 A. I am sure they must have mentioned that, but I
19 don't remember, because we were always worried about
20 violating Stark or an anti-kickback.

21 Q. I want to ask you the same question I asked Dr.
22 Saleh. Are you basing your defense in this case in
23 whole or in part upon a claim that your attorneys

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1 advised you that the lease arrangement satisfied the
2 Stark statute?

3 A. We are not giving up our -- I don't remember
4 the exact, but we are not giving up our attorney-
5 client privilege, no.

6 Q. So you are not saying -- you are not saying, "I
7 thought this was okay, because my attorneys told me
8 this was okay"?

9 A. Correct.

10 Q. Did you think that the hospital was bluffing
11 when they threatened to revoke your privileges?

12 A. No, I did not.

13 Q. Did you have a legitimate belief that if you
14 didn't come to a resolution, they actually would
15 revoke your privileges?

16 A. Yes, I did.

17 Q. I think I might be asking it a little different
18 way, but I think you might have already answered it:
19 Did you ever receive any opinions, any written
20 opinions from Bradford, on the legality of your
21 proposed arrangement?

22 A. I don't remember.

23 Q. During your negotiations with the hospital, do

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1 you recall providing the hospital with, you know,
2 numbers about the volume of tests that you did with
3 the nuclear camera and the dollar figures associated
4 with those tests?

5 A. Well, I have heard a lot of the information
6 here today, so it is hard to differentiate now where
7 that memory came from. From what I heard today, we
8 started going into some numbers under the under
9 arrangements potential scenario.

10 Q. But you don't have any specific recollections
11 providing any of --

12 A. No, I do not.

13 MR. RYCHCIK: You got to let him finish
14 his question before you answer. You both can't
15 be talking at the same time, so let him finish
16 his question before you answer, please.

17 Q. And the answer to that question was no, you
18 don't have any specific recollection?

19 A. Correct.

20 Q. I want to show you Exhibit 21, which is a March
21 20th, 2003 letter to Alan Steinberg from Jodeen Hobbs.
22 We had talked about this earlier in Dr. Saleh's
23 deposition. Do you recall seeing this letter

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1 previously?

2 A. No, I do not.

3 Q. If you look at the second paragraph of the
4 first page -- well, first of all, do you recall the
5 March 8th meeting that she refers to in the second
6 paragraph?

7 A. I know she is referring to the meeting that
8 possibly a lease agreement came up, but I don't
9 remember the actual meeting.

10 Q. Do you remember having any meeting that lasted
11 for over three hours that --

12 A. Most of them did.

13 Q. Oh, most of them did?

14 A. Yes.

15 Q. They were all pretty long meetings?

16 A. Yes.

17 Q. Do you recall a very long meeting where you
18 specifically discussed the numbers on the sublease
19 arrangement?

20 A. There could have been some numbers being
21 discussed. It was very preliminary, but I don't
22 have -- I have a very vague recollection.

23 Q. Do you recall making an initial proposal for a

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1 five-year \$2,000-per-day lease?

2 A. No, I do not.

3 Q. Do you recall leaving the meeting with an
4 agreement -- with what you thought was an agreement
5 for a five-year \$1,500-a-day lease?

6 A. No, I do not.

7 Q. Do you recall Bradford coming back to you with
8 a proposal for a three-year \$1,200-per-day lease?

9 A. No, I do not.

10 Q. Let me show you Exhibit 22, which is a document
11 that Dr. Saleh looked at earlier entitled *Practice*
12 *Statistics*, did you remember seeing this document
13 before today?

14 A. No.

15 Q. So you don't recall this document being used as
16 part of your discussions with the hospital?

17 A. No.

18 Q. Do you know whether this was a document
19 prepared by V&S or by the hospital?

20 A. No. It looks like it would be prepared by the
21 hospital.

22 Q. I will show you Exhibit 23 and 24 together
23 since we talked about them together with Dr. Saleh.

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1 Exhibit 23 was the partially typewritten and partially
2 handwritten document that was apparently handwritten
3 by Dr. Saleh, and Exhibit 24 is a totally handwritten
4 document prepared by Dr. Saleh.

5 Had you ever seen these documents prior to
6 today?

7 A. I don't recall.

8 Q. Do you recall discussions with Dr. Saleh about
9 the various numbers that are mentioned in these
10 documents?

11 A. Vaguely.

12 Q. Do you recall discussing with him whether the
13 hospital's estimate of 2.7 million dollars for
14 inpatient admissions was profit and not gross income?

15 A. I don't remember.

16 Q. Do you recall whether outpatient CT scans and
17 MRIs were greater than 85 percent coming from V&S at
18 the time?

19 A. I don't recall.

20 Q. Did you assist in the preparation of either of
21 these documents?

22 A. I don't remember.

23 Q. I will show you Exhibit 25, which was the three

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1 bar charts for Outpatient Referral Impacts for Dr.
2 Saleh, you, and Total V&S. Do you recall seeing these
3 documents during the time you were negotiating with
4 the hospital?

5 A. No.

6 Q. Do you recall seeing them at any time before
7 today?

8 A. No.

9 Q. Do you know if this was prepared by V&S or by
10 the hospital?

11 A. It seems like it would be prepared by the
12 hospital.

13 Q. Do you recall discussing with the hospital the
14 numbers that are reflected in these charts?

15 A. No.

16 Q. I will show you Exhibit 26, then. Where it
17 says in the handwritten part in the middle right,
18 where it says "AR 230,000" and then it says "Estimated
19 actual payment from third parties," is that your
20 writing?

21 A. Yes, it is.

22 Q. Do you remember writing that?

23 A. I don't remember writing that.

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1 Q. Do you remember seeing this document before?

2 A. Vaguely.

3 Q. Do you think it was something that you all --
4 that you or Dr. Saleh prepared to use in your
5 discussions with the hospital?

6 A. What is the date on this? October?

7 Q. Up on the top, it says --

8 A. We were already operating for about a year, so
9 most of the time, we liked to see year to year, so
10 this is our first full year. Whether it was meant to
11 see what we were generating for that year, I'm not
12 sure why we created it, but it is always good to see
13 what your yearly trends are.

14 Q. Do you know whether these numbers were passed
15 along to the hospital?

16 A. I don't remember.

17 Q. I want you to ask you, essentially, the same
18 questions for Exhibit 27. Have you seen this
19 document, and do you recall whether the numbers were
20 used in your discussions with the hospital?

21 A. This one, I don't remember.

22 Q. Is any of that your handwriting?

23 A. No.

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1 Q. I will show you Exhibit 31, which is a copy of
2 the April 16th, 2003 Agreement. This was the first
3 agreement relating to the sublease issue that you
4 executed with Bradford, correct?

5 A. Correct.

6 Q. And that is your signature on the last two
7 pages of this document, correct?

8 A. Correct.

9 Q. Again, the last two pages are -- they appear to
10 be out of order, but that is the complete document,
11 right?

12 A. (No response.)

13 Q. It goes 1, 2, 4, 3, correct, in our copies?

14 A. Yes.

15 Q. And Exhibit 32, this is a copy of the actual
16 sublease that was subsequently executed, correct?

17 A. Correct.

18 Q. And that is your signature in two places on
19 Bates No. 0316?

20 A. Correct.

21 Q. I have a couple of documents that we did not
22 use in Dr. Saleh's deposition, so I guess we will
23 label the first one 42. You might as well mark this

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1 one, too.

2 (Vaccaro Deposition Exhibit Nos. 42 and 43
3 were marked for identification.)

4 Q. I have shown you Exhibits 42 and 43, which
5 Exhibit 42 was a Contract for Internal Medicine
6 Services for Bradford Recovery Systems dated March 1,
7 2006, and 43 is another contract that looks similar
8 with the same name, dated 2007. Is that correct?

9 A. Correct.

10 Q. Now, these are copies of agreements between you
11 and Bradford Regional Medical Center, correct?

12 A. Correct.

13 Q. And that is your signature on both of the
14 documents?

15 A. Correct.

16 Q. Can you describe to me what you were doing for
17 Bradford pursuant to these contracts?

18 A. Okay. Well, the Recovery Unit in Bradford
19 Regional Medical Center has an inpatient unit, and
20 sometimes they are there most of the time about 28
21 days, and in that 28 days, medical issues may arise,
22 some minor, some severe, and most of these patients
23 are either Medicaid or self-pay patients.

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1 According to our bylaws, we are required to
2 take service call, which means you take care of a
3 patient on a rotational basis from the emergency room
4 that does not have a physician assigned to him, so the
5 patient can have appropriate medical care.

6 That is not a binding requirement. From the
7 emergency room, most of those patients have insurance.
8 These patients, the majority do not.

9 So it became a burden on the house staff to be
10 able to provide medical care and not get paid. There
11 was a delay. If there was a consultation, they would
12 try and tap into the service coverage, but there was a
13 lot of problems associated with that, delays in
14 physicians seeing the patients.

15 There -- sometimes nobody would show up, and
16 therefore, the head of the psychiatric department at
17 approximately a year and a half ago met with the
18 administration on how to resolve that situation, and
19 they left it up to him to contract somebody that would
20 be willing for a flat fee to see the patients that the
21 psychiatrist deemed needed a medical consultation, and
22 he chose me.

23 Q. And how much time would you spend doing those

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1 duties, average, say, per month?

2 A. I see -- it goes in spurts, on and off. I see
3 three to five patients a week on the average.

4 Sometimes I see ten one week and none the other; but
5 on the average, three to five patients a week, each
6 one about an hour.

7 Q. And on the second page, paragraph three says
8 that you are paid \$2,000 per month; is that correct?

9 A. Yes. Initially, it was -- yes, it is. Which
10 one?

11 Q. Well, that was the first contract, 2006. Did
12 the number change for 2007?

13 A. No, it did not. It has been 2,000.

14 Q. Did you have a similar agreement before March
15 1, 2006?

16 A. No. I don't recall if it was one year prior or
17 not. I'm not sure.

18 Q. So you have had it at least two years, and you
19 don't know whether you had it in 2005?

20 A. Correct.

21 Q. But are you sure you didn't have it in 2004?

22 A. Pretty sure.

23 Q. And do you have any other agreements with

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1 Bradford, other than this agreement and the lease
2 agreements --

3 A. No.

4 Q. -- and the lease agreements we have talked
5 about? No?

6 A. No.

7 Q. Dr. Saleh had an agreement for a Case
8 Management Medical Director. Did you have a similar
9 agreement?

10 A. No, I did not.

11 MR. SIMPSON: Five-minute break, and then
12 we might be close to wrapping up?

13 MR. RYCHCIK: Sure.

14 (Recess taken at 4:07 p.m., and testimony
15 was resumed at 4:13 p.m. this date.)

16 (Vaccaro Deposition Exhibit No. 44 was
17 marked for identification.)

18 BY MR. SIMPSON:

19 Q. Very quickly, Dr. Vaccaro, I want to show you a
20 copy of your interrogatory responses that you
21 previously served on us. Do you recall preparing
22 these interrogatory responses or seeing them prepared?

23 A. Yes.

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1 Q. Looking towards the end, I see that Dr. Saleh
2 did a verification, but I don't see a verification by
3 you. Are these interrogatories responses true and
4 correct to the best of your knowledge, information,
5 and belief?

6 A. Yes, they are.

7 Q. Do you recall I showed Dr. Saleh a privilege
8 log that you all had produced to us? I can show it to
9 you again if you would like.

10 A. I did not see it.

11 Q. Did you ever see this privilege log before it
12 was produced to us?

13 A. No.

14 Q. Did you identify any specific documents that
15 should be included in this log as being privileged?

16 A. I don't know.

17 MR. SIMPSON: That is all I have.

18 MR. RYCHCIK: I would like to designate
19 the portion of Dr. Vaccaro's testimony dealing
20 with any substance abuse issues as
21 Confidential, Attorneys' Eyes Only.

22 MR. SIMPSON: I mean, I don't think it
23 qualifies, but you can designate it.

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1 MR. RYCHCIK: We can designate it.

2 MR. SIMPSON: You can designate it.

3 MR. RYCHCIK: We can certainly work that
4 out after the fact. So that portion of the
5 testimony will be so designated.

6 MR. SIMPSON: We will look it over and see
7 if we want to challenge it.

8 Does anybody else have any questions?

9 MR. MULHOLLAND: No questions.

10 MR. SIMPSON: I want to bring Dr. Saleh
11 back for another hour.

12 (Discussion off the record.)

13 MR. RYCHCIK: I would like to have both of
14 them read, please.

15 (Whereupon, the deposition was concluded
16 at 4:20 p.m., and signature was not waived.)

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1 C E R T I F I C A T E

2 COMMONWEALTH OF PENNSYLVANIA :
3 COUNTY OF ALLEGHENY :
: SS.:

4 I, Joy A. Hartman, a Notary Public in and for
the Commonwealth of Pennsylvania, do hereby certify
5 that before me personally appeared PETER VACCARO,
M.D., the witness herein, who then was by me first
6 duly cautioned and sworn to testify the truth, the
whole truth and nothing but the truth in the taking of
7 HIS oral deposition in the cause aforesaid; that the
testimony then given by him as above set forth was
8 reduced to stenotypy by me, in the presence of said
witness, and afterwards transcribed by computer-aided
9 transcription under my direction.

10 I do further certify that this deposition was
taken at the time and place specified in the foregoing
11 caption, and signature was not waived.

12 I do further certify that I am not a relative
of or counsel or attorney for any party hereto, nor am
13 I otherwise interested in the event of this action.

14 IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my seal of office at Pittsburgh,
15 Pennsylvania, on this 14th day of August, 2007.

16 The foregoing certification does not apply to
any reproduction of this transcript in any respect
17 unless under the direct control and/or direction of
the certifying reporter.
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21 Joy A. Hartman, Notary Public
22 in and for the Commonwealth of
Pennsylvania

23 My commission expires May 9, 2010.

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA
2 ERIE DIVISION

3 - - - - -

4 UNITED STATES OF AMERICA,)
5 ex rel., DILBAGH SINGH,)
5 M.D., PAUL KIRSCH, M.D.,)
6 V. ROA NADELLA, M.D., and)
6 MARTIN JACOBS, M.D.,) Civil Action
7 Relators,) No. 04-186E
8 vs.)
9 BRADFORD REGIONAL MEDICAL)
10 CENTER, V&S MEDICAL)
10 ASSOCIATES, LLC, PETER)
11 VACCARO, M.D., KAMRAN)
11 SALEH, M.D., and DOES I)
12 through XX,)
12 Defendants.)

13 DEPOSITION OF EDWARD KABALA
14 THURSDAY, APRIL 3, 2008

15 Deposition of Edward Kabala, called as a witness by
16 the Relators, taken pursuant to Notice of Deposition
17 and the Federal Rules of Civil Procedure, by and
18 before Constance Lee, a Court Reporter and Notary
19 Public in and for the Commonwealth of Pennsylvania,
20 at the offices of Fox Rothschild, 625 Liberty Avenue,
21 29th Floor, Pittsburgh, Pennsylvania, commencing at
22 11:23 a.m. on the day and date above set forth.

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<p style="text-align: center;">2</p> <p>1 APPEARANCES:</p> <p>2 On behalf of the Relators:</p> <p>3 Stone Law Firm Andrew M. Stone, Esquire 4 1400 Allegheny Building Pittsburgh, Pennsylvania 15219</p> <p>5 On behalf of the Defendant, Bradford Regional Medical Center:</p> <p>7 Dan Mulholland, Esquire 4614 Fifth Avenue 8 Pittsburgh, Pennsylvania 15213</p> <p>9 On behalf of the Defendants, V&S Medical Associates, LLC, Peter Vaccaro, M.D. and Kamran Saleh, M.D.:</p> <p>10 Fox Rothschild Carl J. Rychcik, Esquire 625 Liberty Avenue, 29th Floor 12 Pittsburgh, Pennsylvania 15222</p> <p>13 ALSO PRESENT:</p> <p>14 Alan Steinberg</p> <p>15 16 17 18 19 20 21 22 23</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: center;">4</p> <p>1 PROCEEDINGS</p> <p>2 -----</p> <p>3 EDWARD KABALA</p> <p>4 called as a witness by the Relators, being first duly 5 cautioned and sworn, as hereinafter certified, was 6 deposed and said as follows:</p> <p>7 EXAMINATION</p> <p>8 BY MR. STONE:</p> <p>9 Q. Mr. Kabala, as you know, I represent the 10 Plaintiffs in a case that's been filed in the Federal 11 Court for the Western District of Pennsylvania which 12 is a qui tam case against -- the case is filed 13 against Drs. Vaccaro, Saleh, V&S and Bradford 14 Regional Medical Center.</p> <p>15 I will be asking you some questions today 16 with regard to your knowledge about a dispute between 17 the Defendants that occurred a few years ago, and if 18 at any time I venture into an area that is a 19 privileged area, I don't mean to be poking into areas 20 that we're not entitled to question on. I'm going to 21 try to focus my questioning on those areas in which 22 you were -- you participated along with parties other 23 than your clients. If at any time you think I've</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>
<p style="text-align: center;">3</p> <p>1 INDEX</p> <p>2 -----</p> <p>3 WITNESS: PAGE:</p> <p>4 EDWARD KABALA</p> <p>5 Examination by Mr. Stone 4</p> <p>6 EXHIBITS:</p> <p>7 Deposition Exhibit Nos. 1 and 2 21</p> <p>8 Deposition Exhibit No. 3 31</p> <p>9 Deposition Exhibit No. 4 35</p> <p>10 Deposition Exhibit No. 5 36</p> <p>11 Deposition Exhibit No. 6 38</p> <p>12 13 14 15 16 17 18 19 20 21 22 23</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: center;">5</p> <p>1 gotten off that track, I'm sure you or your attorney 2 will let me know.</p> <p>3 Let me just, I guess, maybe clarify for the 4 record, are you being represented by anybody here 5 today for the purposes of the deposition?</p> <p>6 MR. RYCHCIK: I'm representing 7 Mr. Kabala for the purposes of the deposition 8 as well.</p> <p>9 Just so we're clear, Andy, I think what 10 you've said from the standpoint of the 11 attorney-client communications, I do want to 12 be clear that we also are taking the position 13 that any mental impressions, legal theories, 14 conclusions and opinions are also things that 15 are going to be off limits for purposes of the 16 deposition.</p> <p>17 The deposition, to my understanding, is 18 going to be limited to the non-privileged, 19 non-protected communications with outside 20 parties and these meetings.</p> <p>21 MR. STONE: That is my intention. If I 22 get into another area, stop me, and I'll 23 rephrase it, and we'll get at it a different</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>

<p style="text-align: center;">6</p> <p>1 way.</p> <p>2 BY MR. STONE:</p> <p>3 Q. Mr. Kabala, I guess -- how did you come to be 4 involved in a -- in representing Drs. Vaccaro and 5 Saleh back in 2001, 2000, that timeframe?</p> <p>6 MR. RYCHCIK: I'm going to object to 7 that. I think you're going to be asking him 8 attorney-client communications, and I'm going 9 to instruct him not to answer those 10 attorney-client communications.</p> <p>11 MR. STONE: This may be a little 12 difficult.</p> <p>13 Q. Maybe the best way to ask the question would 14 be, Mr. Kabala, do you remember attending meetings 15 with Dr. Vaccaro and Dr. Saleh involving the Bradford 16 Regional Medical Center in 2003?</p> <p>17 A. Yes.</p> <p>18 Q. Do you remember when you attended meetings 19 with your clients and other parties?</p> <p>20 A. Not offhand, but I would think it would be 21 around December of '02 and early part of '03.</p> <p>22 Q. Do you recall meeting with the Bradford 23 Hospital or the Bradford Regional Medical Center to JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: center;">8</p> <p>1 MR. RYCHCIK: I want to be careful, Ed. 2 Your understandings -- I don't want you to get 3 into your opinions, your conclusions, those 4 types of areas. Certainly if he communicated 5 that to you, that's fine. I would like to try 6 to limit it to what it was communicated and 7 those communications back and forth.</p> <p>8 Q. Did Mr. Steinberg tell you that he was 9 representing the hospital and the administration?</p> <p>10 A. He was representing the hospital, yes.</p> <p>11 Q. And did he tell you why he wanted to meet 12 with you and your clients?</p> <p>13 MR. MULHOLLAND: I'll object to the 14 extent that that gets into anything that might 15 constitute work product on behalf of Alan, but 16 I can't instruct him not to answer.</p> <p>17 Q. Did he tell you why he wanted to meet with 18 you?</p> <p>19 A. Yes.</p> <p>20 Q. What did he tell you?</p> <p>21 A. That the parties had a dispute, and they 22 wanted to talk about ways of seeing if it could be 23 resolved.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>
<p style="text-align: center;">7</p> <p>1 negotiate the terms of a lease agreement?</p> <p>2 A. Yes.</p> <p>3 MR. RYCHCIK: When you say "Bradford 4 Regional Medical Center," you're talking about 5 representatives of the hospital?</p> <p>6 MR. STONE: That's right.</p> <p>7 Q. And what were the purpose -- or what was 8 the -- were the substance of those meetings with 9 Bradford relating to a lease agreement?</p> <p>10 MR. RYCHCIK: Objection as to the form 11 of the question. Are you asking him about the 12 particulars, what was discussed? I mean, the 13 substance is kind of broad.</p> <p>14 Q. Let's start -- were your clients invited to 15 meet with the hospital in early 2003?</p> <p>16 A. Yes.</p> <p>17 Q. And how was that communicated to you or your 18 clients?</p> <p>19 A. Probably had discussions with Mr. Steinberg.</p> <p>20 Q. And did you understand that Mr. Steinberg 21 represented the hospital or the hospital 22 administration?</p> <p>23 A. Yes.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: center;">9</p> <p>1 Q. Pursuant to those discussions, did you attend 2 a meeting with your clients and with representatives 3 of the hospital?</p> <p>4 A. I attended several, yes.</p> <p>5 Q. When do you think the first one occurred?</p> <p>6 A. Probably December of '02.</p> <p>7 Q. And what did the hospital communicate to -- 8 to you and your clients at that meeting?</p> <p>9 A. We discussed the conflict, the hospital's 10 conflict of interest policy, that they had such, and 11 we discussed the circumstances with respect to some 12 other issues, medical issues that the hospital and 13 the doctors were involved in, and whether they were 14 going to continue or whether we could try to resolve 15 some of those.</p> <p>16 Q. At that first meeting did the hospital at any 17 time propose an equipment lease agreement?</p> <p>18 A. No.</p> <p>19 Q. At that meeting did your clients propose to 20 the hospital any kind of an equipment lease 21 agreement?</p> <p>22 A. I don't recall when that came up. The first 23 meeting was primarily, as I recall, an attempt to JOHNSON and MIMLESS (412) 765-0744</p>

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1 dispense with what the hospital said was not part of
 2 the dispute, which were some issues between
 3 Drs. Vaccaro and Saleh and other members of the
 4 medical staff on some QA matters.

5 Q. Did the hospital relate that those matters
 6 were somehow an issue with regard to continuing staff
 7 privileges at the hospital? Is that the --

8 A. No. The hospital basically related that
 9 those issues were separate and apart from anything
 10 with respect to the conflict of interest policy, and
 11 I believe our position was that let's get rid of
 12 them, that they were occurring at the same time, and
 13 we took the position that they were involved with the
 14 conflict of interest policy. And I believe that
 15 Mr. Leonhardt had resolved that matter by getting
 16 outside consultants, whether it was the first meeting
 17 or after the first meeting or somewhere along those
 18 lines.

19 Q. Now, you said that there were several
 20 meetings. What was the -- what happened at the next
 21 meeting, and approximately how long after the first
 22 meeting did that occur?

23 MR. RYCHCIK: Objection as to form of
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1 A. Not that I can recall.

2 Q. Do you know whether -- do you remember
 3 whether the doctors, your clients, proposed anything
 4 with regard to a lease agreement in that second
 5 meeting?

6 A. Probably, but I don't recall specifically
 7 when.

8 Q. Did the parties discuss a -- the possibility
 9 of a buyout of the doctors' practice or a portion of
 10 the doctors' practice?

11 A. No.

12 Q. What was the lease proposal that the doctors
 13 made to the hospital at that second meeting?

14 A. Don't know if there was a specific proposal.
 15 The original concept was to discuss how the parties
 16 could back off from the precipices that they -- the
 17 deadlock, the fight that they were involved in, and
 18 whether there were legal ways to resolve the issue.

19 I think a number of things were discussed. I
 20 don't know that anything was specifically proposed.
 21 There was some concepts raised. I think at one point
 22 we probably said did they want to buy the camera
 23 business, the nuclear camera business, and the

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1 hospital said they did not, and then we looked at
 2 other alternatives.

3 Q. Did the hospital relate to you at either the
 4 first or second meeting what their concerns were with
 5 regard to V&S operating this nuclear imaging part of
 6 their practice?

7 A. Well, the concerns had been raised in prior
 8 correspondence.

9 Q. Did they relate to you at the first or second
 10 meeting that their business was -- the volume of
 11 their business with regard to nuclear imaging and
 12 cardiology was being impacted by your clients'
 13 business?

14 MR. RYCHCIK: Objection as to the form
 15 of the question. You're asking if that's what
 16 was communicated in one of these letters?

17 MR. STONE: No. I'm asking whether that
 18 was communicated in either one of the
 19 meetings.

20 A. I don't recall that being a topic of
 21 discussion at the meetings.

22 Q. At either of these meetings did the hospital
 23 present any information with regard to the volume of

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<p style="text-align: right;">14</p> <p>1 referrals or the decline in referrals that was 2 resulting from the V&S imaging practice?</p> <p>3 A. No.</p> <p>4 MR. RYCHCIK: I just want to be clear. 5 You're talking about the first two meetings?</p> <p>6 MR. STONE: Yes.</p> <p>7 MR. RYCHCIK: In the event there were 8 subsequent meetings --</p> <p>9 MR. STONE: We will get to those.</p> <p>10 Q. By the time you got to the end of the second 11 meeting, had the parties reached any agreement with 12 regard to a lease arrangement?</p> <p>13 A. Not that I recall.</p> <p>14 Q. Was there an agreement or consensus to meet 15 again?</p> <p>16 A. I believe there was a thought that we would 17 meet again, but I don't know that anybody had any 18 particular agreement on it.</p> <p>19 Q. How long after that do you think you met?</p> <p>20 A. Another month maybe.</p> <p>21 Q. So that would be possibly early February?</p> <p>22 A. Early February, I guess.</p> <p>23 Q. And at that time did the hospital request an</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: right;">16</p> <p>1 hospital and medical staff. That was primarily the 2 topic. And other things were probably discussed at 3 the same time, but --</p> <p>4 Q. Was there any further discussion regarding 5 the hospital purchasing the imaging practice?</p> <p>6 A. Not that I recall.</p> <p>7 Q. And you said that you think primarily the 8 discussions involved the under arrangements venture?</p> <p>9 A. Yes.</p> <p>10 Q. Was there any discussion about the lease at 11 that point that you remember?</p> <p>12 A. As I recall there was, and I don't think it 13 went very far. I don't think the hospital wanted to 14 do it at that time.</p> <p>15 Q. Did the hospital tell you why they were not 16 interested in the lease arrangement?</p> <p>17 A. No.</p> <p>18 Q. I want to show you a set of documents that -- 19 I apologize. I notice that the copies, when they 20 were copied, the Bates stamp number at the bottom was 21 sort of cut off, so we may have to work around that a 22 little bit. We'll try to direct you to the right 23 place in the packet.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>
<p style="text-align: right;">15</p> <p>1 additional meeting?</p> <p>2 A. There was a meeting after -- there was a 3 subsequent meeting in March. I don't know who 4 requested what.</p> <p>5 Q. No, To get from the January meeting to the 6 February meeting, had somebody requested the February 7 meeting --</p> <p>8 A. Obviously, but I couldn't tell you --</p> <p>9 Q. -- either the hospital or your clients?</p> <p>10 A. Yes. I couldn't tell you who.</p> <p>11 Q. Again, did that occur at Mr. Steinberg's 12 office?</p> <p>13 A. I believe so.</p> <p>14 Q. And who were in attendance at that meeting?</p> <p>15 A. Probably same people. At one meeting there 16 was a gentleman from Mr. Voyvodich from Stroudwater, 17 but I don't recall which one.</p> <p>18 Q. At the February meeting, was the proposal -- 19 was the concept of a lease arrangement, was that 20 discussed?</p> <p>21 A. I think the February meeting primarily 22 discussed what was called an under arrangements 23 model, which is a form of joint venture between a</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: right;">17</p> <p>1 MR. MULHOLLAND: Is this all one 2 exhibit, Andy?</p> <p>3 MR. STONE: I believe it is, because the 4 cover fax says it's nine pages, and I think it 5 appears to be nine pages.</p> <p>6 Q. Mr. Kabala, this appears to be a facsimile 7 transmission of a series of letters relating to 8 meetings that Bradford Hospital and the doctors were 9 having in early 2003. Can you identify this packet 10 as something that's familiar to you?</p> <p>11 A. First one is a letter dated March 14, 2003 12 from Alan J. Steinberg to Jodeen Hobbs who was 13 working with me in representing Drs. Vaccaro and 14 Saleh and V&S. The second one is a letter dated 15 March 12, 2003 from Mr. Steinberg to me. And the 16 third one is March 11, 2003, from Mr. Steinberg to 17 me.</p> <p>18 MR. RYCHCIK: I'm assuming --</p> <p>19 A. The fax cover page --</p> <p>20 MR. RYCHCIK: I want to say I'm 21 assuming, and maybe I shouldn't assume, are 22 you going to ask him questions about the 23 content of the letters? If so, I would like</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>

<p>18</p> <p>1 the witness to take the opportunity to read 2 through the letters in their entirety. If 3 you're asking him just has he recognized them, 4 that's one thing. If you're going to ask him 5 specific questions, I would like to give him 6 the opportunity to read through the entire 7 exhibit.</p> <p>8 MR. STONE: Let's give him a couple 9 minutes, however long it will take him to read 10 through this. I think it will go faster if 11 he's familiarized himself with the document.</p> <p>12 MR. RYCHCIK: Again, with the 13 understanding, certainly, that he can testify 14 what that document says, but if you're getting 15 into interpretation other than what was 16 communicated to counsel back and forth, I 17 think that's going to be the limit of what 18 he's going to be able to talk about.</p> <p>19 MR. STONE: I agree. I don't have any 20 intention, again, of getting off the path that 21 we talked about earlier. I want to try to 22 focus his attention on certain aspects of 23 these meetings, and I think these letters will</p> <p>JOHNSON and MIMLESS (412) 765-0744</p>	<p>20</p> <p>1 you have a recollection of receiving it, you 2 can testify to that. If you don't have a 3 recollection of receiving it, then --</p> <p>4 A. Yeah, I got it eventually, sure.</p> <p>5 Q. And this series of correspondence appears to 6 relate to a meeting that occurred in early March of 7 2003?</p> <p>8 A. Probably March 8th, the Saturday before.</p> <p>9 This one is the 11th, and I think that prior Saturday 10 was March 8th.</p> <p>11 Q. Would the March 8th meeting, that was a 12 meeting that you attended?</p> <p>13 A. It was.</p> <p>14 Q. Was that a follow up to the earlier meetings 15 that you previously testified about?</p> <p>16 A. Yes.</p> <p>17 Q. You remember whether there was anything in 18 between the February meeting and this meeting, or is 19 this the next one in the sequence?</p> <p>20 A. No. There probably would have been some 21 correspondence, and there may have been some 22 discussions between Mr. Steinberg and myself.</p> <p>23 Q. Okay. Now, I'm going to show you -- I think</p> <p>JOHNSON and MIMLESS (412) 765-0744</p>
<p>19</p> <p>1 help me do that.</p> <p>2 MR. MULHOLLAND: For the record, would 3 you have any objection if I handed a copy to 4 Mr. Steinberg? He can review them now. You 5 may be asking him some questions about them.</p> <p>6 MR. STONE: I think that will probably 7 save us some time.</p> <p>8 (Witness reviews document.)</p> <p>9 A. Okay.</p> <p>10 Q. Looking at the first page, the fax 11 transmittal, this appears to have been directed to 12 you. Can you acknowledge having received these 13 letters around -- approximately around this time?</p> <p>14 Does that --</p> <p>15 MR. RYCHCIK: If you recall.</p> <p>16 A. I would have received them later. Actually, I probably received some of them earlier and some of them later. I believe I was on vacation for part of that time.</p> <p>20 MR. RYCHCIK: I think he's asking about 21 this whole entire fax that appears to have 22 been -- there's nine pages, and all the 23 letters were sent at the same time. Again, if</p> <p>JOHNSON and MIMLESS (412) 765-0744</p>	<p>21</p> <p>1 we will mark this one as Deposition Exhibit No. 1.</p> <p>2 This next one we will mark as Deposition 3 Exhibit 2?</p> <p>4 (Kabala Exhibit Nos. 1 and 2 were marked 5 for identification.)</p> <p>6 MR. RYCHCIK: Take your time to read 7 through this one as well.</p> <p>8 THE WITNESS: Uh-huh.</p> <p>9 (Witness reviews document.)</p> <p>10 A. Okay.</p> <p>11 Q. Is this letter familiar to you?</p> <p>12 A. It is.</p> <p>13 Q. Have you previously received it?</p> <p>14 A. I have.</p> <p>15 Q. And I think you testified that Ms. Hobbs was 16 working with you; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Now, both Exhibit 1 and 2 refer to this 19 meeting on March 8th, 2003.</p> <p>20 A. Yes.</p> <p>21 Q. Is it your recollection that that meeting was 22 largely about or substantially about the lease 23 arrangement?</p> <p>JOHNSON and MIMLESS (412) 765-0744</p>

<p style="text-align: center;">22</p> <p>1 A. No. It was -- it was -- the lease 2 arrangement was discussed. It was also about the 3 under arrangements model and the hospital's desire to 4 have Drs. Vaccaro and Saleh participate in that. 5 Q. Okay. Do you recall where that meeting took 6 place? 7 A. I think it's in Mr. Steinberg's office. 8 Q. And Ms. Hobbs' letter refers to Drs. Vaccaro 9 and Saleh being present, yourself, Mr. Steinberg and 10 Mr. Mulholland and Mr. Leonard. Is that what you 11 remember? 12 A. As I recall, Mr. Steinberg had some other 13 issues, and he was in and out, but yes. 14 Q. So those persons would have attended at least 15 some part of that meeting? 16 A. I believe so. 17 Q. Do you remember whether the hospital 18 requested this meeting or whether this was a meeting 19 that was requested by your clients? 20 A. I don't recall whether -- who actually 21 requested it. I mean -- 22 Q. Do you remember how long this meeting lasted? 23 A. Pretty much all morning.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: center;">24</p> <p>1 Q. You said at the early meetings the hospital 2 did not seem to be interested in a lease arrangement? 3 A. That's correct. 4 Q. At this meeting in March did they express or 5 relate to you that they were now interested in the 6 proposal? 7 A. At the beginning of the meeting, as I recall, 8 they said they were interested in talking about it 9 further, that they had originally said they were not 10 interested, and they were interested in seeing if one 11 could be worked out by the parties in a way that 12 would be satisfactory to the lawyers and the clients. 13 Q. Who made the first proposal with regard to 14 the amount of the lease payment? 15 A. Probably me. 16 Q. And did you relate to the hospital why the 17 doctors felt that it was worth a certain amount in 18 terms of a per diem charge or a monthly charge? 19 A. I'm sure I did. 20 Q. And what did you tell -- what did you tell 21 the hospital about what the basis for that proposal 22 was? 23 A. I told the hospital that although it was just</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>
<p style="text-align: center;">23</p> <p>1 Q. And what do you remember about the 2 discussions involving the lease? 3 MR. RYCHCIK: Objection as to the form 4 of the question. 5 You can go ahead and answer. 6 Are you looking to just in general what 7 he remembered, every discussion that took 8 place? It's a broad area. 9 Q. Well, I'm certainly not asking you about what 10 you advised your clients out of the presence of other 11 parties, but I'm talking about the discussions 12 between the parties and the lawyers involving the 13 lease. What do you remember about those discussions? 14 A. At this stage the concept was to have 15 Drs. Vaccaro and Saleh eventually join in to 16 something called an under arrangements model. We 17 were discussing whether the parties would wait for 18 the under arrangements model to be implemented or 19 whether there was a way that we could legally develop 20 some methodology for the hospital to take over the 21 nuclear camera and the nuclear camera business at an 22 earlier stage because it would take some time for the 23 under arrangements model to be implemented.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: center;">25</p> <p>1 basically in its first year, the doctors were making 2 a substantial number of dollars and would anticipate 3 making additional dollars over the period as the 4 business grew, and that if they were to put at some 5 point through the under arrangements model, then 6 that -- that plus some other ventures would be there. 7 But if we were going to be talking about 8 something before the under arrangements model, then I 9 had proposed, I think, something in the area of 10 \$2,000 per day as a sublease. 11 Q. And did you relate to the hospital that it 12 was -- that whatever arrangement was agreed upon 13 would have to compensate the physicians for the loss 14 of the business opportunity or the loss of the 15 profit? Is that what you were -- 16 A. They were giving up some profit of \$240,000 17 initially and then more later, so my proposal was 18 that they compensate the doctors for the camera, the 19 cost of the camera and basically for a noncompete. 20 The form, whether we did it as a sublease or a 21 sublease and a noncompete or whatever, all those 22 things were talked about, and it basically got down 23 to one document.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>

<p style="text-align: right;">30</p> <p>1 the medical staff, for protecting the -- from putting 2 everybody in a venture where they would cooperate, 3 the physicians would cooperate with each other and 4 to -- to do what was best for the community.</p> <p>5 So we talked about the under arrangements 6 model in a very preliminary sense. It had to be 7 fleshed out. It had to be submitted to the Office of 8 Inspector General for approval, and I had not worked 9 with an under arrangements model, so I did not 10 know --</p> <p>11 MR. RYCHCIK: I want to stop you. One 12 thing I want you to be careful of, I don't 13 want you to get into particulars about your 14 experience or your thoughts or anything along 15 those lines, just what was communicated.</p> <p>16 A. I hadn't worked with one.</p> <p>17 Q. Did the hospital tell you that they would 18 seek approval from HHS on the lease arrangement?</p> <p>19 A. No.</p> <p>20 Q. Did you tell the hospital that you would seek 21 approval of the -- preliminary approval of the lease 22 arrangement?</p> <p>23 A. No.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: right;">32</p> <p>1 there was some information that was provided 2 regarding the volume of the nuclear camera. Is this 3 what you were referring to before?</p> <p>4 A. The second paragraph says, "You therefore 5 know, at this stage, the income of the practice at 6 this stage and that there is a, at a minimum, 7 \$250,000 in costs to abandon the project. The actual 8 number is \$244,000 plus 6 percent sales tax just for 9 the lease." That was to abandon the lease just as it 10 stood. There was no issue of --</p> <p>11 Q. I was actually referring to the paragraph 12 right above that, I think.</p> <p>13 A. "We have provided you with the annual volume 14 for the nuclear camera." As I believe, after the 15 earlier meeting the doctors provided Mr. Voyvodich 16 and Stroudwater some volumes in order to do projects 17 to do the under arrangements model.</p> <p>18 Q. That would be important in terms of 19 evaluating the contribution to the under arrangements 20 model?</p> <p>21 MR. RYCHCIK: I'm going to object to 22 that question. You're asking him, it would be 23 important. I'm going to instruct him not to</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>
<p style="text-align: right;">31</p> <p>1 Q. I'm going to show you a third document which 2 we'll mark as Exhibit 3.</p> <p>3 (Kabala Exhibit No. 3 was marked for 4 identification.)</p> <p>5 MR. STONE: Off the record for a second.</p> <p>6 (Discussion held off the record.)</p> <p>7 (Witness reviews document.)</p> <p>8 A. Okay.</p> <p>9 Q. If you would look at that document and 10 identify that for us. Does that document look 11 familiar to you?</p> <p>12 A. It is. It's a letter I wrote.</p> <p>13 Q. It's authored by you?</p> <p>14 A. It is.</p> <p>15 Q. It's directed to Mr. Steinberg?</p> <p>16 A. It is.</p> <p>17 Q. In the first sentence it references a meeting 18 on January 31st.</p> <p>19 A. Okay.</p> <p>20 Q. Is it possible that that was the meeting that 21 you were referring to when you said early February?</p> <p>22 A. Probably, yeah.</p> <p>23 Q. In the second paragraph -- it indicates that</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: right;">33</p> <p>1 answer that question.</p> <p>2 MR. STONE: I'll rephrase it.</p> <p>3 Q. You had testified earlier that discussions 4 that you had and information that you provided on the 5 volumes had to do with the under arrangements 6 venture.</p> <p>7 A. That's right. At this stage there was no 8 lease issue.</p> <p>9 Q. I just wanted to clarify that that's what 10 that was referring to. If you would look at, I 11 guess, the fourth page of that document, the second 12 full paragraph starts with the reference to 13 Mr. Mulholland.</p> <p>14 A. Okay.</p> <p>15 Q. Again, this relates to, again, your statement 16 that one of the issues that was in discussion in 17 March had to do with giving up a very profitable 18 business and somehow compensate them for that. In 19 this letter, I'm assuming that the lease isn't on the 20 table at that point; this is really relating to the 21 under arrangements?</p> <p>22 A. This is relating to the under arrangements 23 and stop being a separate business.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>

<p style="text-align: right;">34</p> <p>1 Q. Was this concern or were these issues also 2 relevant to your -- were these also part of your 3 discussions in March relating to the lease agreement? 4 MR. RYCHCIK: Objection as to the form 5 of the question. When you say "these issues," 6 what are you talking about? 7 MR. STONE: The two issues that I 8 referred to in this letter. One having to do 9 with the volume of the nuclear camera, and the 10 second one being the giving up of a 11 functioning, profitable business. 12 Q. In this letter in the context of the under 13 arrangements model or the proposed under arrangements 14 model, my question is simply, were those 15 considerations also part of your discussions in March 16 as related to the lease? 17 A. The cost of taking over the equipment was a 18 consideration in the sublease. The fact that they 19 were giving up a business and that they were signing 20 a noncompete in my mind determined -- 21 MR. RYCHCIK: I want to be careful, in 22 your mind. Why don't we take a step back. 23 A. Then I can't answer that.</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: right;">36</p> <p>1 place in this case. 2 MR. MULHOLLAND: For the record, the 3 hospital will also designate it also as 4 confidential. 5 (Witness reviews document.) 6 A. Okay. 7 Q. Mr. Kabala, is this a document that is 8 familiar to you? 9 A. It is. 10 Q. Can you identify what it is. 11 A. The cover page is from Mr. Steinberg to 12 Mark S. Raspanti, who is in the same firm as Jodeen 13 Hobbs. The first one, two, three, four, five, six 14 pages is a letter from Mr. Steinberg to Mr. Raspanti 15 dated February 26th, 2002. The next two pages, or 16 the last two pages, are a letter dated July 30, 2001 17 from Mr. Leonhardt, president/CEO of Bradford 18 Regional Medical Center to Dr. Peter Vaccaro and 19 Dr. Kamran Saleh. 20 Q. The next one is -- we'll mark this as 21 Exhibit 5, I guess. 22 (Kabala Exhibit No. 5 was marked for 23 identification.)</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>
<p style="text-align: right;">35</p> <p>1 MR. RYCHCIK: I'm going to instruct you 2 not to answer anything relating -- 3 Q. Was this information discussed with BRMC? 4 MR. RYCHCIK: I don't want you to be 5 getting into anything that was in your mind. 6 I want to limit it to what was discussed and 7 communicated. 8 A. No, it was not discussed. 9 Q. Let me show you a fourth exhibit. 10 (Kabala Exhibit No. 4 was marked for 11 identification.) 12 MR. STONE: Off the record. 13 MR. RYCHCIK: I do want to -- for the 14 record. 15 MR. STONE: He can read them if he 16 wants. 17 MR. RYCHCIK: I want you to read it, and 18 I want to note for the record that Exhibit 4 19 needs to be designated as confidential, and 20 that needs to be maintained as a confidential 21 document for purposes of the deposition. It 22 contains peer review information within the 23 confidentiality order stipulation that's in</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>	<p style="text-align: right;">37</p> <p>1 MR. RYCHCIK: Same designation as to 2 made with Exhibit 4. 3 MR. MULHOLLAND: And the hospital also 4 so designates it as confidential. 5 MR. STONE: You probably know which ones 6 are together and which ones aren't. That's 7 one letter, so I think we can do that. 8 MR. RYCHCIK: Okay. 9 MR. STONE: And then I have this as 10 being four pages. Is that right? 11 MR. RYCHCIK: I believe so. Again, 12 without reference to what I sent, I can't 13 confirm that. 14 (Witness reviews document.) 15 MR. RYCHCIK: I'm sorry, I didn't -- was 16 there a question that was on the table? 17 Q. Mr. Kabala, again, is this document familiar 18 to you? 19 A. In general the document is familiar. It's 20 pages two through eight of a fax of a letter from 21 Mr. Mark Raspanti to Mr. George Leonhardt, so 22 obviously there was a Page 1, probably a cover page 23 of a fax. There is some handwriting on there that I</p> <p style="text-align: center;">JOHNSON and MIMLESS (412) 765-0744</p>

1 **don't recognize and don't know that I've seen.**

2 Q. And then we'll mark this last one as
3 Exhibit 6.

4 (Kabala Exhibit No. 6 was marked for
5 identification.)

6 MR. RYCHCIK: Same designation for
7 Exhibit 6 as the prior two exhibits. It's the
8 confidentiality.

9 MR. MULHOLLAND: The hospital will also
10 designate it as confidential.

11 A. **This is four pages. The first two are a**
12 **letter that I wrote November 19, 2003 to**
13 **Mr. Steinberg. Page 3 is a fax transmittal, and**
14 **Page 1 is a fax transmittal.**

15 MR. RYCHCIK: Well, for purposes of the
16 exhibit, I think you mean the final page. The
17 fax transmittal final pages, I believe, were
18 tagged on at the end. You're looking at the
19 last page of the exhibit.

20 A. **Bates 3189 and 3190 which are behind 3187 and**
21 **88. It's just in a different form.**

22 Q. Okay.

23 MR. STONE: I don't have any further
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1 questions of Mr. Kabala at this time. So
2 anybody else?

3 MR. MULHOLLAND: I have no questions.

4 MR. RYCHCIK: We would like to read.
5 (Whereupon, the deposition was concluded
6 at 12:13 p.m., and signature was not waived.)

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1 C E R T I F I C A T E

2 UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF PA - ERIE) SS:

3 I, Constance Lee, a Notary Public in and
4 for the Commonwealth of Pennsylvania, do hereby
certify that before me personally appeared EDWARD
KABALA, the witness herein, who then was by me first
duly cautioned and sworn to testify the truth, the
whole truth and nothing but the truth in the taking
of his oral deposition in the cause aforesaid; that
the testimony then given by him as above set forth
was reduced to stenotypy by me, in the presence of
said witness, and afterwards transcribed by
computer-aided transcription under my direction.

9 I do further certify that this
10 deposition was taken at the time and place specified
in the foregoing caption, signature was not waived.

11 I do further certify that I am not a
12 relative of or counsel or attorney for any party
hereto, nor am I otherwise interested in the event of
13 this action.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand and affixed my seal of office at Pittsburgh,
Pennsylvania, on this 7th day of April, 2008.

16 The foregoing certification does not
apply to any reproduction of this transcript in any
17 respect unless under the direct control and/or
direction of the certifying reporter.

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Constance Lee, Notary Public in
and for the Commonwealth of
Pennsylvania

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23

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA
3 ERIE DIVISION

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5 UNITED STATES OF AMERICA,)
6 ex rel., DILBAGH SINGH,)
7 M.D., PAUL KIRSCH, M.D.,)
8 V. ROA NADELLA, M.D., and)
9 MARTIN JACOBS, M.D.,) Civil Action
10) No. 04-186E
11) Relators,)
12))
13) vs.)
14))
15) BRADFORD REGIONAL MEDICAL)
16) CENTER, V&S MEDICAL)
17) ASSOCIATES, LLC, PETER)
18) VACCARO, M.D., KAMRAN)
19) SALEH, M.D., and DOES I)
20) through XX,)
21))
22) Defendants.)
23

DEPOSITION OF ALAN STEINBERG
THURSDAY, APRIL 3, 2008

15 Deposition of Alan Steinberg, called as a witness by
16 the Relators, taken pursuant to Notice of Deposition
17 and the Federal Rules of Civil Procedure, by and
18 before Constance Lee, a Court Reporter and Notary
19 Public in and for the Commonwealth of Pennsylvania,
20 at the offices of Fox Rothschild, 625 Liberty Avenue,
21 29th Floor, Pittsburgh, Pennsylvania, commencing at
22 12:33 p.m. on the day and date above set forth.

23 -----

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1 APPEARANCES:

2 On behalf of the Relators:

3 Stone Law Firm
 4 Andrew M. Stone, Esquire
 4 1400 Allegheny Building
 5 Pittsburgh, Pennsylvania 15219

5 On behalf of the Defendant, Bradford Regional Medical
 6 Center:

7 Dan Mulholland, Esquire
 8 4614 Fifth Avenue
 8 Pittsburgh, Pennsylvania 15213

9 On behalf of the Defendants, V&S Medical Associates,
 10 LLC, Peter Vaccaro, M.D. and Kamran Saleh, M.D.:

11 Fox Rothschild
 11 Carl J. Rychcik, Esquire
 12 625 Liberty Avenue, 29th Floor
 12 Pittsburgh, Pennsylvania 15222

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1 PROCEEDINGS

2 ----

3 ALAN STEINBERG

4 Called as a witness by the Relators, being first duly
 5 cautioned and sworn, as hereinafter certified, was
 6 deposed and said as follows:

7 EXAMINATION8 BY MR. STONE:

9 Q. Mr. Steinberg, you were here for the earlier
 10 deposition, so I won't repeat everything. But again,
 11 I'm going to be trying to ask you some questions
 12 about knowledge that you have regarding a lease
 13 negotiation with V&S Medical Associates in early
 14 2003. I will try to stay away from matters that are
 15 privileged in any way, and if I get into some areas,
 16 I'm sure Mr. Mulholland will interpose an objection,
 17 or you can stop me, and I'll try to rephrase it so
 18 that we don't get into any area we're not supposed to
 19 be in.

20 Let me start by asking you, did there come a
 21 time where you met with representatives from V&S
 22 Medical Associates in early 2003 regarding a possible
 23 lease arrangement -- equipment lease arrangement?

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5

1 I N D E X

2 ----

3 WITNESS:

PAGE:

4 Alan Steinberg

5 Examination by Mr. Stone

4

6 EXHIBITS:

7 Deposition Exhibit No. 1

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1 A. We met early 2003. I'm not sure when the
 2 lease arrangement discussion arose.

3 Q. Okay. What was the first time that you
 4 recall discussing a lease arrangement with
 5 representatives of V&S?

6 A. I don't recall what was the first time.

7 Q. Okay. You said you recall meeting with V&S
 8 in early 2003.

9 A. Uh-huh.

10 Q. Do you remember what was discussed at your
 11 meeting in early 2003?

12 A. Whether we could resolve the conflict between
 13 S & V (sic) Corporation and the Medical Center. I
 14 believe perhaps -- I believe also the under
 15 arrangements model. That's what I recall.

16 Q. Okay. And the discussions that you had
 17 regarding the under arrangements model involved V&S
 18 and other practices at the hospital; is that right?

19 A. Yes.

20 Q. Do you recall whether the hospital made a
 21 proposal to V&S regarding a purchase of their medical
 22 practice or a portion of their medical practice?

23 A. No, I don't recall that.

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Q. Do you recall V&S making a proposal to the hospital involving the sale or purchase of their imaging business?

A. Yes.

Q. And do you recall when that occurred?

A. Shortly before -- I don't recall with certainty when that was done.

Q. Do you recall what that proposal was?

A. An amount of money. That's all I recall.

Q. And did the hospital respond to V&S with regard to that proposal?

A. Yes.

Q. And what was the position that the hospital conveyed to V&S?

A. Not accept the offer.

Q. So the hospital conveyed to V&S or their representative that it was something that the hospital was not interested in?

A. Correct.

Q. Okay. Now, you were here for Mr. Kabala's deposition, and he testified to a series of meetings that involved discussions regarding either an under arrangements venture or a lease or both. Do you

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recall that?

A. His testimony?

Q. Yes.

A. Yes.

Q. Okay. Do you agree with his recollection that there was a series of meetings involving those two subjects?

A. There were a series of meetings, yes.

Q. And those meetings occurred at your office; is that right?

A. Yes.

Q. Who attended those meetings? And if they were the same person -- the same parties at each meeting, you can simply tell me who was there at all of them. If there was some difference or change, please indicate whether -- when that -- what the difference was between the meetings and who attended.

A. Okay. The main players, the main people I should say, Drs. Saleh and Vaccaro, Ed Kabala, their counsel, George Leonhardt, myself was the core. I don't recall, though, who else at different meetings. Dan Mulholland attended, but I don't recall which ones, though he attended, as I recall.

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Q. And Mr. Leonhardt also attended on behalf of the hospital?

A. Correct.

Q. I'm going to ask you to look at what we've marked in Mr. Kabala's deposition as Exhibit No. 3 and ask you to take a look at that document.

(Witness reviews document.)

Q. Can you identify this as a document that's familiar to you?

A. Yes.

Q. What is it?

A. It's a letter dated February 5, 2003 from Ed Kabala to myself regarding Drs. Vaccaro and Saleh and Bradford Regional Medical Center.

Q. It references a follow up to a meeting on January 31st --

A. Correct.

Q. -- 2003; is that right?

A. Correct.

Q. Do you recall any discussion at that January 31st meeting regarding a proposed lease arrangement?

A. I don't have present recall of that.

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Q. Do you recall whether the hospital at some point proposed a lease arrangement or whether the proposal came from V&S?

MR. MULHOLLAND: Are you asking for his recollection in the context of discussions or communications between the parties?

MR. STONE: Yeah.

A. Could you repeat that, please.

Q. Do you recall whether the hospital at any point proposed a lease arrangement as a way to resolve the dispute between the parties?

A. I'm trying to recall a moment. Discussions began with under arrangements. I don't recall when the lease came in and by whom. That's why I was delaying. I was trying to recall.

Q. So if I asked you the question, do you recall the doctors making a proposal, your answer would be the same; you're not sure who proposed it?

A. I believe they began with the proposal of the lease.

Q. Do you recall whether the hospital conveyed a position initially of rejecting a lease arrangement?

Did the hospital ever say to V&S or their

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1 representative that they were not interested in a

2 lease arrangement?

3 A. I don't recall.

4 Q. I'm going to ask you to take a look at
5 Exhibit Nos. 1 and 2, if you could. Again, these
6 were previously marked in Mr. Kabala's deposition.

7 (Witness reviews document.)

8 A. Uh-huh. Yes.

9 Q. Okay. Let's start with Deposition Exhibit
10 No. 1. And I apologize that the Bates stamp numbers
11 are cut off at the bottom there, but you can take a
12 look at this. This is essentially a group documents
13 that's a series of correspondence and ask you if it's
14 familiar to you.

15 (Witness reviews document.)

16 A. Yes, it does look familiar.

17 Q. And can you describe what's contained in this
18 group exhibit?

19 A. It begins with a fax cover sheet from myself
20 to Ed Kabala dated March 14, 2003. Nine pages. The
21 first document is dated March 14, 2003 from myself to
22 Jodeen Hobbs, Esquire, regarding the Medical Center's
23 Drs. Vaccaro and Saleh. The next one is a March 12,

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1 A. Uh-huh, that meeting on March 8th, yes.

2 Q. And the Jodeen Hobbs letter of March 20th,
3 that would be Exhibit No. 2.

4 A. Uh-huh.

5 Q. Says in the second paragraph that the
6 discussions focused primarily on the details of a
7 proposed lease agreement between the Medical Center
8 and V&S Medical for the nuclear camera. Is that your
9 recollection of that meeting?

10 A. I thought it was about a lease and the under
11 arrangements model, is my recollection. Not --

12 Q. Well, was the lease agreement -- do you
13 recall the lease -- proposed lease agreement being
14 discussed at that meeting?

15 A. That sounds correct that it was discussed.

16 Q. And in the letter she also indicates that in
17 attendance were Drs. Vaccaro and Saleh, Mr. Kabala,
18 you, meaning yourself --

19 A. Uh-huh.

20 Q. -- and Mr. Mulholland and Mr. Leonhardt.
21 Does that sound familiar to you as well? Do you
22 recall that?

23 A. Yes.

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11
1 2003 letter from myself to Ed Kabala regarding the
2 same matter. And then lastly a March 11th, 2003
3 letter from myself to Ed Kabala, same matter.

4 Q. If you would look at Exhibit No. 2 in
5 Mr. Kabala's deposition.

6 (Witness reviews document.)

7 Q. Again, is this document familiar to you, and
8 can you identify it?

9 A. Yes. It's a letter to me from Jodeen Hobbs
10 dated March 20, 2003 regarding V&S Medical
11 Associates.

12 Q. Okay. Exhibits 1 and 2 seem to refer to a
13 meeting that took place apparently on March 8th,
14 2003; is that correct?

15 A. I'm sorry, I was reading. Say it again,
16 please. I apologize.

17 Q. Exhibits 1 and 2 that you just looked at and
18 identified seem to refer to discussions that were
19 held at a meeting on March 8th, 2003.

20 A. Correct.

21 Q. And am I correct that those discussions were
22 at a meeting that took place between the hospital and
23 its representatives and V&S and its representatives?

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13

1 Q. Now, what do you recall being the position of
2 the hospital as related -- as it was relayed or
3 related to V&S on the lease agreement? What do you
4 recall the position was that the hospital took in
5 that meeting?

6 A. It was a meeting more than five years ago. I
7 see in here -- it says the lease concept had been
8 rejected by the hospital. I don't recall specifics
9 of the five-year-old meeting of what occurred.

10 Q. Okay. Do you recall that the hospital agreed
11 at some point to enter into a lease arrangement with
12 V&S?

13 A. Yes.

14 Q. Okay. And do you recall whether that was the
15 result of these various meetings?

16 A. Yes.

17 Q. Do you recall whether the rate to be paid
18 under that lease agreement was a matter that was
19 negotiated between the parties at the March 8th
20 meeting?

21 A. There were ongoing negotiations on that rate.
22 I don't recall if that was part of the March 8th
23 meeting.

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1 Q. Do you recall whether the doctors ever
2 related to you a position with regard to how they
3 were valuing the lease agreement?

4 **A. Specifically the doctors to me?**

5 Q. Well, at that meeting the doctors or their
6 attorney would have related to you a position,
7 presumably, if it was being negotiated, on how they
8 were valuing the lease.

9 **A. That had occurred. I don't recall
10 specifically if it was that meeting or not, but there
11 had been that information provided, yes.**

12 Q. What was the position that the doctors
13 related to the hospital in terms of putting a value
14 on the lease agreement?

15 **A. They wanted -- I don't know -- hearing this
16 from Ed Kabala or not. They wanted payments of
17 around, I think, \$2,000 a day. I think. Then there
18 may have been more to it. That's what I recall.**

19 Q. And do you remember them telling you why they
20 wanted \$2,000 as opposed \$10,000 a day?

21 **A. No, I don't.**

22 Q. Or \$1,000 a day?

23 **A. No.**

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1 discussion of a noncompete agreement at that

2 March 8th meeting, and if you do, what that involved,
3 what the discussion was?

4 **A. I believe there was discussion, but again,
5 that's just the gist of what I recall. It was part
6 of the negotiation.**

7 Q. Did the hospital take the position or tell
8 V&S that they would -- that the hospital was
9 requiring a noncompete if they were going to sublet
10 the equipment? In other words, was it a position
11 that was represented to V&S?

12 **A. I believe so, yes.**

13 Q. Did the hospital request V&S, either at the
14 March 8th meeting or at some point before that
15 meeting or some time after, did the hospital request
16 financial information about the operation of the
17 imaging business by V&S?

18 **A. I don't recall if the hospital requested it
19 or it was just provided.**

20 Q. But the hospital did receive financial
21 information from V&S regarding the imaging business?

22 **A. I believe so, yes.**

23 Q. And do you remember whether that was before
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15
1 Q. Do you recall what the position of the
2 hospital was in terms of responding to that proposal,
3 why the hospital thought it should be less?

4 MR. MULHOLLAND: I'll object to the
5 extent you're asking him information that
6 would have been communicated to him in the
7 confidential attorney-client communication or
8 that you're asking for work product. But if
9 you're asking what the hospital asked or
10 communicated at the meeting, maybe you could
11 rephrase it that way.

12 MR. STONE: Sure,

13 Q. And that's really what I was trying to ask
14 you, Mr. Steinberg. What was the position that the
15 hospital related to V&S as to why they didn't want to
16 pay the \$2,000 a day?

17 **A. My recollection is that it was just too high
18 an amount. I don't recall --**

19 Q. They never told V&S why they thought it was
20 too high; is that what you're saying?

21 **A. I don't recall if that was part of the
22 discussion or just a simple, that's too much.**

23 Q. Do you recall whether there was any

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1 or after the March 8th meeting?

2 **A. I don't.**

3 Q. Or at the March 8th meeting?

4 **A. I don't remember at what stage; sorry.**

5 Q. Do you recall whether the hospital provided
6 any information to V&S with regard to referrals or
7 the imaging business at the hospital?

8 **A. When you say "referrals," what do you mean by
9 "referrals"?**

10 Q. Well, let's -- I'll rephrase it this way.

11 Did the hospital provide any information to V&S
12 related to the negotiation over the lease?

13 **A. I'm sorry. One more time.**

14 Q. Did the hospital provide to V&S any
15 information related to the negotiation of the lease
16 agreement?

17 **A. Uh-huh, yeah.**

18 Q. What information do you recall that the
19 hospital provided to V&S?

20 **A. I'm not remembering the specifics. I mean,
21 we negotiated over the lease terms, so there would be
22 us providing here's provisions we want in the lease.
23 Them -- I mean, them reacting back, thus saying that**

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works or doesn't work. The ongoing nature of how to

2 **negotiate out a lease, the covenant of the**
 3 **noncompete.**

4 Q. I'm not asking about exchanging drafts of
 5 language, for example, the first draft of a contract
 6 that would be marked up or something like that. What
 7 I'm asking is, is there any information that was
 8 provided in the negotiation of the valuation or the
 9 terms, meaning the rental to be paid under the terms
 10 of the lease or the value of the noncompete?

11 A. **I don't recall if it happened for the lease**
 12 **or not.**

13 Q. Do you recall whether that information was
 14 exchanged in connection with the under arrangements
 15 venture?

16 A. **I believe -- that's what I recall, for the**
 17 **under arrangements, that there was. I just don't**
 18 **recall for the lease.**

19 Q. I'm going to ask you to take a look at
 20 Exhibits 4, 5 and 6 for a few minutes and see if you
 21 can review those.

22 A. **Okay.**

23 (Witness reviews document.)

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1 MR. RYCHCIK: Are you talking about --
 2 is there a 4, 5, and 6?

3 MR. MULHOLLAND: Those are the copies
 4 that you had given me. Those are the ones you
 5 just said you had printed out.

6 MR. RYCHCIK: Again, on behalf of
 7 Drs. Vaccaro and Saleh and V&S for the
 8 purposes of this transcript as well, we want
 9 to designate those exhibits as confidential.

10 MR. MULHOLLAND: And the same for the
 11 hospital, of course.

12 A. **Ready.**

13 Q. I guess the first document, 4, if you
 14 could -- is this a document that's familiar to you
 15 that you've seen before?

16 A. **Yes.**

17 Q. Can you identify what it is.

18 A. **It's a letter from myself to Mark Raspanti,**
 19 **R-A-S-P-A-N-T-I, dated February 26, 2002, concerning**
 20 **Dr. Peter Vaccaro's reappointment to the medical**
 21 **staff at Bradford Regional Medical Center.**

22 Q. Could you go to Exhibit No. 5.

23 A. **Uh-huh.**

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1 Q. And can you take a look at that and see if

2 that document is familiar.

3 A. **Yes, it is.**

4 Q. Can you identify it, please.

5 A. **It's a letter from Mark Raspanti to George**
 6 **Leonhardt dated February 15, 2002, regarding**
 7 **Dr. Peter Vaccaro's reappointment to the medical**
 8 **staff.**

9 Q. And Exhibit No. 6.

10 A. **Yes. It's a letter from Ed Kabala to myself**
 11 **dated November 19, 2003, concerning Drs. Vaccaro and**
 12 **Saleh and Bradford Regional Medical Center.**

13 Q. And I'm going to give you a document which
 14 we'll mark as -- should we just mark --

15 MR. STONE: You guys want to -- is this
 16 all going to be part of one transcript, or do
 17 you want to have them separate?

18 MR. MULHOLLAND: You can refer to them.
 19 I don't think you have to duplicate them.

20 MR. RYCHCIK: I do think we will have
 21 two separate transcripts.

22 MR. STONE: If we're going to keep it
 23 separate, this was not referred to in the

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1 earlier exhibits, so we will mark this as
 2 Deposition Exhibit No. 1 in Mr. Steinberg's
 3 deposition.

4 Q. And I'm going to ask you to take a look at
 5 that.

6 (Steinberg Exhibit No. 1 was marked for
 7 identification.)

8 (Witness reviews document.)

9 A. **Uh-huh.**

10 Q. Can you tell me whether this document is
 11 familiar to you?

12 A. **Yes, it is.**

13 Q. And can you identify this document, please.

14 A. **It is a letter from Mark Raspanti to myself,**
 15 **dated March 20, 2002, regarding Dr. Kamran Saleh's**
 16 **reappointment and Dr. Peter Vaccaro's reappointment.**

17 MR. RYCHCIK: I'd like to designate this
 18 as confidential as well, please.

19 MR. MULHOLLAND: The hospital will also
 20 designate it as confidential.

21 MR. STONE: Okay. I don't think I have
 22 any further questions, Mr. Steinberg, at this
 23 time.

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2 MR. RYCHCIK: No.

3 MR. MULHOLLAND: No questions. We
4 reserve the right to read and sign, please.

5 (Whereupon, the deposition was concluded
6 at 1:05 p.m., and signature was not waived.)

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1 C E R T I F I C A T E

2 UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF PA - ERIE) SS:

3 I, Constance Lee, a Notary Public in and
4 for the Commonwealth of Pennsylvania, do hereby
certify that before me personally appeared ALAN
STEINBERG, the witness herein, who then was by me
first duly cautioned and sworn to testify the truth,
6 the whole truth and nothing but the truth in the
taking of his oral deposition in the cause aforesaid;
7 that the testimony then given by him as above set
forth was reduced to stenotypy by me, in the presence
8 of said witness, and afterwards transcribed by
computer-aided transcription under my direction.

9
10 I do further certify that this
deposition was taken at the time and place specified
in the foregoing caption, signature was not waived.

11
12 I do further certify that I am not a
relative of or counsel or attorney for any party
hereto, nor am I otherwise interested in the event of
13 this action.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand and affixed my seal of office at Pittsburgh,
Pennsylvania, on this 7th day of April, 2008.

16 The foregoing certification does not
apply to any reproduction of this transcript in any
17 respect unless under the direct control and/or
direction of the certifying reporter.

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21 -----
Constance Lee, Notary Public in
and for the Commonwealth of
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